IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 26.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.185 of 2006

Poongavanam ... Petitioner

Vs.

1.The Commissioner of Police,
Salem City, Salem.

2.The Secretary to Government,
Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records of the first respondent herein in C.M.P.No.32/B.L./Salem City/2005, set aside the order of detention passed therein dated 16.12.2005 and direct the respondents herein to produce the detenu by name Chinnadurai before this Court setting him at liberty now detained in the Central Prison, Salem.

For Petitioner : Mr.S.Panneerselvam

For Respondents : Mr.M.K.Subramanian
Govt. Advocate (Crl. Side)

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the wife of the detenu by name Chinnadurai, who was detained as a "Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral

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Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982(Tamil Nadu Act 14 of 1982), by the impugned detention order dated 16.12.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Government Advocate has placed the details, which show that the representation of the detenu dated 10.01.2006 was received by the Government on 17.01.2006 and remarks were called for on 18.01.2006. Thereafter, the remarks were received by the Government on 27.01.2006 and the File was submitted on 28.01.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on 30.01.2006 and finally, the Minister for Prohibition and Excise passed orders on 31.01.2006. The rejection letter was prepared on 07.02.2006 and the same was sent to the detenu on 08.02.2006 and served to him on 10.02.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 31.01.2006, there is no explanation at all for taking time for preparation of rejection letter till 07.02.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for preparation of rejection letter is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/-
Asst. Registrar.

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/true copy/

Sub Asst. Registrar.

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To

1. The Secretary to the Government, State of Tamil Nadu,Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2. The Commissioner of Police, Salem city, Salem.

3. The Superintendent, Central Prison, Salem.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 cc to Mr.S. Panneerselvam,Advocate, Sr. 21907

HCP. No.185 of 2006

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